IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.211 OF 2000
IN
SUMMARY SUIT NO.4038 OF 1997

Askania Trust ...Plaintiffs

V/s.

Enkay Texofood Industries Ltd. ...Defendants

.....

Mr.S.Dasgupta i/b Basin & Co. for Plaintiffs.

None for Defendants.

.....

CORAM: A.M.KHANWILKAR, J.

AUGUST 7, 2007.

P.C.

1. In terms of liberty given under order dated July 24, 2007, Plaintiffs have filed affidavit of service dated 7th August 2007. It is stated that inspite of the best of efforts, the Plaintiffs could not find the latest address of the Defendants for service of the present proceedings. Instead, it has been found that the Office of the Defendants is closed for quite some time and on the last known address of the Defendants, similar

notices are already found affixed on the door such as from SEBI, Metropolitan Magistrate Court of Calcutta, Special Metropolitan Magistrate of Small Causes Court, 23rd Metropolitan Magistrate Court at Esplanade, Notice of the Collector and District Magistrate, Mumbai City, etc. In other words, the Defendants are avoiding service.

2. It is seen from the record that service was already effected on the earlier occasion but the Summons for Judgment could not proceed as the Defendant Company was before B.I.F.R. Now, the proceedings before B.I.F.R. have been dismissed as is found from the website report produced on the earlier occasion referred to in order dated 24th July 2007. In other words, inspite of service, the Defendants have not chosen to appear nor contest the present proceedings.

3. Thus understood, the case made out by the Plaintiffs in the present proceedings stated on affidavit-in-support of the Summons for Judgment has remained uncontroverted. As per the assertions in the said affidavit and the Plaint, it is seen

that the Defendants are liable to pay the acknowledged amount to the Plaintiffs. Plaintiffs are therefore entitled to proceed against the Defendants for recovery of the said amount. As no plausible explanation is offered on behalf of the Defendants, the Plaintiffs are entitled for relief as prayed for in the Summons for Judgment.

4. In the circumstances, Summons for Judgment is made absolute.

A.M.KHANWILKAR, J.